

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2651**

**Introduced by Assembly Member Chu**

February 22, 2002

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~~An act to add Sections 16013, 16014, 16015, 16016, 16017, and 16018 to the Welfare and Institutions Code, relating to social services. An act to amend Sections 16001.9, 16164, and 16167 of, and to add Sections 16013, 16014, 16015, and 16016 to, the Welfare and Institutions Code, relating to social services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2651, as amended, Chu. Foster youth.

Existing law provides for the placement of certain youth in foster care, and provides for child welfare services for, among other purposes, the protection and promotion of the welfare of all youth, including those in foster care.

Existing law also establishes the Office of the State Foster Care Ombudsperson within the State Department of Social Services for the purpose of providing youth placed in foster care with a means of resolving issues related to their care, placement, or services.

*Existing law establishes a statewide toll-free telephone number for foster care youth to contact the Office of the State Foster Care Ombudsperson.*

This bill would ~~require the department to adopt regulations~~ *declare legislative intent and State policy*, as specified, regarding gay or lesbian youth who are in foster care, including training requirements for foster parents and foster care staff, *and issues pertaining to discrimination*

*based on, among other things, race, sexual orientation, and medical condition.*

~~This bill would require the department to establish a statewide toll-free hotline for gay or lesbian foster care youth who are abused or in danger of being abused because of their sexuality also express the intent of the Legislature with respect to the duties of the State Foster Care Ombudsperson, and the availability of the toll-free hotline with respect to gay and lesbian youth in foster care.~~

~~This bill would establish goals with respect to gay and lesbian foster parents and foster youth. The bill would require each county to distribute resource guides to foster youth, foster care staff, foster parents, and the biological families of foster youth. It would also require each county to provide foster youth with information about sexuality and sexual health including gay or lesbian issues and the prevention of HIV or AIDS and other sexually transmitted diseases.~~

~~By imposing additional duties upon each county, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*This bill would also require the department to make diligent efforts to locate foster care placement resources that would allow children in state custody to practice their religious faiths, and would require the department to promulgate related regulations.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. *Section 16001.9 of the Welfare and Institutions*
- 2 *Code is amended to read:*



1 16001.9. (a) It is the policy of the state that all children in  
2 foster care shall have the following rights:

3 (1) To live in a safe, healthy, and comfortable home where he  
4 or she is treated with respect.

5 (2) To be free from physical, sexual, emotional, or other abuse,  
6 or corporal punishment.

7 (3) To receive adequate and healthy food, adequate clothing,  
8 and, for youth in group homes, an allowance.

9 (4) To receive medical, dental, vision, and mental health  
10 services.

11 (5) To be free of the administration of medication or chemical  
12 substances, unless authorized by a physician.

13 (6) To contact family members, unless prohibited by court  
14 order, and social workers, attorneys, foster youth advocates and  
15 supporters, Court Appointed Special Advocates (CASA), and  
16 probation officers.

17 (7) To visit and contact brothers and sisters, unless prohibited  
18 by court order.

19 (8) To contact the Community Care Licensing Division of the  
20 State Department of Social Services or the State Foster Care  
21 Ombudsperson regarding violations of rights, to speak to  
22 representatives of these offices confidentially, and to be free from  
23 threats or punishment for making complaints.

24 (9) To make and receive confidential telephone calls and send  
25 and receive unopened mail, unless prohibited by court order.

26 (10) To attend religious services and activities of his or her  
27 choice.

28 (11) To maintain an emancipation bank account and manage  
29 personal income, consistent with the child's age and  
30 developmental level, unless prohibited by the case plan.

31 (12) To not be locked in any room, building, or facility  
32 premises, unless placed in a community treatment facility.

33 (13) To attend school and participate in extracurricular,  
34 cultural, and personal enrichment activities, consistent with the  
35 child's age and developmental level.

36 (14) To work and develop job skills at an age-appropriate level  
37 that is consistent with state law.

38 (15) To have social contacts with people outside of the foster  
39 care system, such as teachers, church members, mentors, and  
40 friends.

1 (16) To attend Independent Living Program classes and  
2 activities if he or she meets age requirements.

3 (17) To attend court hearings and speak to the judge.

4 (18) To have storage space for private use.

5 (19) To review his or her own case plan if he or she is over 12  
6 years of age and to receive information about his or her  
7 out-of-home placement and case plan, including being told of  
8 changes to the plan.

9 (20) To be free from unreasonable searches of personal  
10 belongings.

11 (21) To confidentiality of all juvenile court records consistent  
12 with existing law.

13 (22) *To be free from discrimination and harassment based on*  
14 *actual or perceived race, color, religion, ancestry, ethnicity,*  
15 *national origin, physical or mental disability, medical condition,*  
16 *sex, including gender identity, or sexual orientation.*

17 (b) Nothing in this section shall be interpreted to require a  
18 foster care provider to take any action that would impair the health  
19 and safety of children in out-of-home placement.

20 SEC. 1.5. Section 16013 is added to the Welfare and  
21 Institutions Code, to read:

22 ~~16013. The State Department of Social Services shall develop~~  
23 ~~regulations relating to the management of foster care youths that~~  
24 ~~implement the following policies:~~

25 *16013. The Legislature finds and declares that, in an effort to*  
26 *enhance care and improve the well-being of youth in foster care,*  
27 *providers should be ensured the following protections:*

28 (a) Sexual orientation as a basis for discrimination is prohibited  
29 *in the delivery of benefits and services.*

30 (b) Discrimination based on the sexual orientation of foster  
31 parents and other foster household members, ~~not only in licensing~~  
32 ~~in licensing, approval, and placement decisions but in all~~  
33 ~~interactions,~~ is prohibited.

34 ~~(c) Employment discrimination and harassment based on the~~  
35 ~~sexual orientation of foster care staff is prohibited. All reasonable~~  
36 ~~steps necessary shall be taken to prevent harassment from~~  
37 ~~occurring.~~

38 ~~(d) Discrimination in the provision of services on the basis of~~  
39 ~~HIV or AIDS status is prohibited.~~

40 ~~(e)~~

1 (c) Discrimination based on the HIV or AIDS status of foster  
2 parents who are able to perform foster care responsibilities and of  
3 other foster household members is prohibited.

4 ~~(f) Employment discrimination and harassment based on the~~  
5 ~~HIV or AIDS status of foster care staff is prohibited. All~~  
6 ~~reasonable steps necessary shall be taken to prevent harassment~~  
7 ~~from occurring. All group facilities for foster care youths shall be~~  
8 ~~made a safe environment for gay or lesbian youth and additional~~  
9 ~~specialized services shall be provided.~~

10 SEC. 2. Section 16014 is added to the Welfare and Institutions  
11 Code, to read:

12 16014. (a) It is the goal of this state that foster parents,  
13 including, *but not limited to*, gay or lesbian adults, shall be  
14 identified who are interested in caring for gay or lesbian youth in  
15 foster care.

16 ~~(b) It is further the goal of this state that one-on-one and group~~  
17 ~~counseling services shall be provided for gay or lesbian youth in~~  
18 ~~foster care throughout California.~~

19 ~~(c) Each county, working in collaboration with community~~  
20 ~~groups and nonprofit entities, shall distribute resource guides to~~  
21 ~~foster youth, foster care staff, foster parents, and biological~~  
22 ~~families of foster youth.~~

23 ~~(d) Each county shall provide foster care youth with~~  
24 ~~developmentally appropriate information and resources about~~  
25 ~~sexuality and sexual health, including gay or lesbian issues, and the~~  
26 ~~prevention of HIV or AIDS and other sexually transmitted~~  
27 ~~diseases.~~

28 SEC. 3. Section 16015 is added to the Welfare and Institutions  
29 Code, to read:

30 ~~16015. The department shall develop the following~~  
31 ~~regulations in relation to the training of individuals involved in the~~  
32 ~~management of foster care youth:~~

33 ~~(a) Training shall be required of all foster parents and foster~~  
34 ~~care staff about the policies~~

35 *16015. It is the intent of the Legislature that the training of*  
36 *caregivers and foster parents include all of the following topics:*

37 (a) Policies and applicable state laws barring discrimination on  
38 the basis of sexual orientation and HIV or AIDS status.

39 ~~(b) Training shall be required of all foster parents and foster~~  
40 ~~care staff on sensitivity~~

1     **(b)** *Sensitivity to sexual orientation and the challenges faced by*  
2 *gay or lesbian youth, or youth with gender issues, and sensitivity*  
3 *to the trauma faced by youth who have been sexually or physically*  
4 *abused.*

5     ~~(e) Training shall be required of all foster parents and foster~~  
6 ~~care staff on supporting foster care youth in coming out as gay or~~  
7 ~~lesbian.~~

8     ~~(d) Training shall be required of all foster parents and foster~~  
9 ~~care staff on educating~~

10    **(c)** *Educating gay or lesbian youth in foster care about their*  
11 *sexuality and sexual health, including prevention of HIV or AIDS*  
12 *and other sexually transmitted diseases.*

13    ~~(e) Training shall be required of all foster care staff on the~~

14    **(d)** *The department's policies with regard to gay or lesbian*  
15 *youth in foster care.*

16    SEC. 4. Section 16016 is added to the Welfare and Institutions  
17 Code, to read:

18    ~~16016. The department shall adopt regulations consistent~~  
19 ~~with state law to ensure the confidentiality of the HIV or AIDS~~  
20 ~~status of foster care youth.~~

21    SEC. 5. Section 16017 is added to the Welfare and Institutions  
22 Code, to read:

23    ~~16017. The department shall adopt regulations describing the~~  
24 ~~steps that the Office of the State Foster Care Ombudsperson will~~  
25 ~~take in cases of confirmed or suspected abuse of gay or lesbian~~  
26 ~~foster youth by other foster children or by foster care providers.~~

27    SEC. 6. Section 16018 is added to the Welfare and Institutions  
28 Code, to read:

29    ~~16018. The department shall create a statewide toll-free~~  
30 ~~hotline for gay or lesbian foster care youth who are being~~  
31 ~~physically or emotionally abused because of their sexuality. The~~  
32 ~~regulations shall include followup procedures to ensure that foster~~  
33 ~~care youth who call the hotline are not being abused or in danger~~  
34 ~~of being abused.~~

35    SEC. 7. Notwithstanding Section 17610 of the Government  
36 Code, if the Commission on State Mandates determines that this  
37 act contains costs mandated by the state, reimbursement to local  
38 agencies and school districts for those costs shall be made pursuant  
39 to Part 7 (commencing with Section 17500) of Division 4 of Title  
40 2 of the Government Code. If the statewide cost of the claim for

~~reimbursement does not exceed one million dollars (\$1,000,000),  
reimbursement shall be made from the State Mandates Claims  
Fund.~~

16016. *It is the goal of this state to ensure that children in foster care maintain contact with their families and communities, including religious communities, to the extent consistent with their physical and psychological safety. To further this goal the department shall do both of the following:*

(a) *By June 30, 2003, promulgate regulations that ensure that whenever removal of a child from his or her home is contemplated, the responsible social worker shall ask the parent or legal guardian whether the child has a religious affiliation, including an affiliation with a particular religious institution.*

(b) *Make diligent efforts to locate placement resources that will allow children in state custody to practice their religious faiths, including those religious practices that require attention to aspects of daily living including diet, dress, social interaction, and special holiday observations, in order to protect the right of these children to the free exercise of religion.*

SEC. 5. *Section 16164 of the Welfare and Institutions Code is amended to read:*

16164. (a) The Office of the State Foster Care Ombudsperson shall do all of the following:

(1) Disseminate information on the rights of children and youth in foster care and the services provided by the office. The rights of children and youths in foster care are listed in Section 16001.9. The information shall include notification that conversations with the office may not be confidential.

(2) Investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services. *It is the intent of the Legislature that the Office of the State Foster Care Ombudsperson shall address complaints brought by gay or lesbian foster youth regarding their care, placement, and services. The Ombudsperson shall refer allegations of violations of licensing regulations to the Community Care Licensing Division, and shall refer allegations of civil rights violations to the Office of Civil Rights.*

(3) Decide, in its discretion, whether to investigate a complaint, or refer complaints to another agency for investigation.



1 (4) Upon rendering a decision to investigate a complaint from  
2 a complainant, notify the complainant of the intention to  
3 investigate. If the office declines to investigate a complaint or  
4 continue an investigation, the office shall notify the complainant  
5 of the reason for the action of the office.

6 (5) Update the complainant on the progress of the investigation  
7 and notify the complainant of the final outcome.

8 (6) Document the number, source, origin, location, and nature  
9 of complaints.

10 (7) Compile and make available to the Legislature all data  
11 collected over the course of the year including, but not limited to,  
12 the number of contacts to the toll-free telephone number, the  
13 number of complaints made, the number of investigations  
14 performed by the office, the number of referrals made, and the  
15 number of unresolved complaints.

16 (8) Have access to any record of a state or local agency that is  
17 necessary to carry out his or her responsibilities, and may meet or  
18 communicate with any foster child in his or her placement or  
19 elsewhere.

20 (b) The office may establish, in consultation with a committee  
21 of interested individuals, regional or local foster care  
22 ombudsperson offices for the purposes of expediting  
23 investigations and resolving complaints, subject to appropriations  
24 in the annual Budget Act.

25 (c) (1) The office, in consultation with the California Welfare  
26 Directors Association, Chief Probation Officers of California,  
27 foster youth advocate and support groups, groups representing  
28 children, families, foster parents, children's facilities, and other  
29 interested parties, shall develop, no later than July 1, 2002,  
30 standardized information explaining the rights specified in  
31 Section 16001.9. The information shall be developed in an  
32 age-appropriate manner, and shall reflect any relevant licensing  
33 requirements with respect to foster care providers' responsibilities  
34 to adequately supervise children in care.

35 (2) The office, counties, foster care providers, and others may  
36 use the information developed in paragraph (1) in carrying out  
37 their responsibilities to inform foster children and youth of their  
38 rights pursuant to Section 1530.91 of the Health and Safety Code,  
39 Sections 27 and 16501.1, and this section.



1     *SEC. 6. Section 16167 of the Welfare and Institutions Code is*  
2     *amended to read:*

3     16167. (a) A toll-free *telephone* number shall be established  
4     for the office.

5     (b) Social workers shall provide foster children with the  
6     toll-free *telephone* number for the office and verbal or written  
7     information regarding the existence and purpose of the office.

8     (c) *It is the intent of the Legislature that the toll-free telephone*  
9     *number be available to gay or lesbian youth in foster care who are*  
10    *being physically, sexually, or emotionally abused because of their*  
11    *sexuality.*

